



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 1, 2005

Ms. Cynthia Villarreal-Reyna
Agency Counsel Section Chief
Legal and Compliance Division
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR2005-00951

Dear Ms. Villarreal-Reyna:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 218169.

The Texas Department of Insurance (the "department") received a request for underwriting guidelines and rates for Columbia Lloyds Insurance Company ("Columbia") and National Lloyds Insurance Company ("National"). You indicate that release of the underwriting guidelines and rates may implicate the proprietary interests of Columbia and National, although the department takes no position on whether this information should be withheld. You state, and provide documentation showing, that you notified Columbia and National of the request and of their right to submit arguments to this office as to why the information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under Public Information Act in certain circumstances). You also contend that an e-mail address in the submitted information is excepted from disclosure under section 552.137 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to that party should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, neither Columbia nor National have submitted comments to this office explaining how release of the requested information would affect the companies' proprietary interests. Therefore, Columbia and National have provided us with no basis to conclude that the companies have protected proprietary interests in any of the submitted information. *See* Gov't Code § 552.110(b) (to prevent disclosure of

commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure); Open Records Decision Nos. 639 at 4 (1996), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990).

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is specifically excluded by section 552.137(c). See Gov’t Code § 552.137(a)-(c). The e-mail address at issue is not specifically excluded by section 552.137(c). You indicate that the relevant individual has not consented to its disclosure. We therefore determine that the department must withhold the marked e-mail address pursuant to section 552.137(a).

In summary, the marked e-mail address must be withheld under section 552.137(a) of the Government Code. The remainder of the information at issue must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within thirty calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within ten calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within ten calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within ten calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within ten calendar days of the date of this ruling.

Sincerely,



David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/seg

Ref: ID# 218169

Enc: Submitted documents

c: Mr. David Buchanan
Texas Select Lloyds Insurance Company
17300 Henderson Pass, #250
San Antonio, Texas 78232
(w/o enclosures)

Mr. Terry Martin Cotter
Columbia Lloyds Insurance Company
P.O. Box 540307
Houston, Texas 77254
(w/o enclosures)

Mr. George Vanek
National Lloyds Insurance Company
P.O. Box 2650
Waco, Texas 76702
(w/o enclosures)